

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SANFORD WILLIAMS,

Defendant-Appellant.

UNPUBLISHED

October 1, 1999

No. 205633

Berrien Circuit Court

LC No. 96-002743 FH

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LONZO COOK, JR.,

Defendant-Appellant.

No. 205635

Berrien Circuit Court

LC No. 96-002742 FH

Before: McDonald, P.J., and Kelly and Cavanagh, JJ.

PER CURIAM.

Defendants pleaded guilty to conspiracy to possess 50 grams or more but less than 225 grams of cocaine with intent to deliver, MCL 750.157a; MSA 28.354(1) and MCL 333.7401(2)(a)(iii); MSA 14.15(7401)(2)(a)(iii). Defendants were sentenced to ten to twenty years' imprisonment and now appeal as of right. We affirm.

Defendant Sanford Williams argues that he was denied the effective assistance of counsel. He claims that his trial attorney had a conflict of interest because he also represented Dion Branch in a federal case, and Branch was a potential prosecution witness in the case at bar if defendant elected to proceed with trial. We disagree.

Defense counsel testified that he was involved in Branch's case as "second chair" and that the attorney of record was Roosevelt Thomas. Furthermore, defendant assured the trial court that he approved Thomas' continued representation of Branch even if Branch agreed to testify against defendant. Because no record evidence exists indicating that defense counsel's "second chair" representation of Branch had any inimical effect on defendant's plea, defendant has failed to show that an actual conflict of interest existed that adversely affected the adequacy of his representation. *People v Lafay*, 182 Mich App 528, 530; 452 NW2d 852 (1990); *Cuyler v Sullivan*, 446 US 335, 348-350; 100 S Ct 1708; 64 L Ed 2d 333 (1980).

Defendant Lonzo Cook, Jr. claims that he is entitled to be resentenced because his sentence is disproportionate under *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). We disagree for several reasons. First, defendant's plea agreement provided that he would not be sentenced to a minimum prison term exceeding the mandatory statutory minimum of ten years, and he was sentenced to exactly ten years. A defendant who pleads guilty with knowledge of the sentence through a sentence bargain demonstrates his agreement that the sentence is proportionate. *People v Cobbs*, 443 Mich 276, 285; 505 NW2d 208 (1993). Second, MCL 333.7401(2)(a)(iii); MSA 14.15(7401)(2)(a)(iii) provides a mandatory minimum term of ten years, and a mandatory minimum sentence imposed by statute is presumably valid and proportionate. *People v Williams*, 189 Mich App 400, 404; 473 NW2d 727 (1991). Third, by pleading guilty, defendant avoided a mandatory life sentence on a higher charge and obtained dismissal of three counts of delivery of less than fifty grams of cocaine. Finally, we have considered the grounds advanced by defendant for diminution of his minimum term pursuant to MCL 333.7401(4); MSA 14.15(7401)(4) and find that they do not constitute substantial and compelling reasons for sentence reduction. Defendant's sentence is proportionate to the offense and the offender.

Affirmed.

/s/ Gary R. McDonald
/s/ Michael J. Kelly
/s/ Mark H. Cavanagh